



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

EL-KHARIF LIMITED

Petitioner

v.

Lebanese Arak Corporation

Respondent

Cancellation No. _____
Registration No. 3167866

78/675, 653.

PETITION FOR CANCELLATION

El-Kharif Limited, a limited liability company of Lebanon, located in Jal el Dib, Lebanon, believes that it will be damaged by the continued registration of the mark in Registration No. 3167866 and hereby petitions to cancel same on the following grounds:

1. El-Kharif Limited ("Petitioner") is the owner of the mark ARAK EL RIF for arak, and has registered this mark in Lebanon.
2. Petitioner has used in commerce its ARAK EL RIF mark since at least as early as 1990.
3. The public has come to recognize the ARAK EL RIF mark as signifying Petitioner, and this mark represents substantial goodwill for Petitioner.
4. Lebanese Arak Corporation ("Respondent") was issued on November 7, 2006 Registration No. 3167886 for the mark ARAK EL RIF for the goods alcoholic beverages, namely, arak and vodka. In this registration, Respondent alleged August 5, 1996 as the dates of first use and first use in commerce for this mark.
5. The arak obtained by Respondent for sale in the United States as identified by the ARAK EL RIF mark was manufactured, bottled and labeled with this mark by Petitioner. Respondent's sales of arak identified by this mark, and as manufactured, bottled and



labeled by Petitioner, commenced before the foregoing dates of use alleged in the subject registration. On information and belief, the arak identified by the ARAK EL RIF mark and as sold by Respondent has always been the arak manufactured, bottled and labeled by Petitioner.

6. All of the specimens of use of the mark submitted by Respondent in the subject registration show arak as manufactured, bottled and labeled by Petitioner.

7. Respondent does not have any agreement with Petitioner for exclusive importation or distribution in the United States of arak identified by the mark.

8. Petitioner's arak identified by the mark has been imported and distributed in the United States by persons other than Respondent.

9. Respondent does not control the nature and quality of the goods identified by the subject mark since those goods are manufactured, bottled and labeled by Petitioner.

10. Petitioner has not assigned or otherwise transferred the rights in its mark ARAK EL RIF to Respondent.

11. Respondent has not used the subject mark in commerce to identify vodka.

Count I

12. Petitioner incorporates by reference the allegations in paragraphs 1 to 11.

13. Respondent was not the owner of the mark ARAK EL RIF when it filed the application resulting in the subject registration.

14. Said application was thereby void, and the subject registration should be cancelled under Section 1 of the Trademark Act, 15 U.S.C. § 1051.

Count II

15. Petitioner incorporates by reference the allegations in paragraphs 1 to 11.

16. Respondent's mark so resembles Petitioner's ARAK EL RIF mark that was used in commerce by Petitioner prior to any use by Respondent as to be likely to cause confusion, or to cause mistake, or to deceive, and is thereby precluded from registration under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

Count III

17. Petitioner incorporates by reference the allegations in paragraphs 1 to 11.

18. Respondent knew or should have known that it falsely alleged use of the subject mark for vodka in obtaining the subject registration, and said registration should thereby be cancelled for fraud in prosecuting the application contrary to the requirements of Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a).

WHEREFORE, Petitioner respectfully requests that this petition be granted, and that Registration No. 3167866 be cancelled.

Respectfully submitted,

Date: April 16, 2008

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Certificate of Service

This is to certify that a copy of the foregoing Petition for Cancellation was this

16th day of April 2008 sent by overnight courier delivery to the following:

Lebanese Arak Corporation
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With a courtesy copy to:

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